Supreme Court, U.S.
FILED
AUG 2 - 1999
OFFICE OF THE CLERK

No. 99 565

IN THE

SUPREME COURT OF THE UNITED STATES

In re [ALLEN B. CARLTON JR.] - Petitioner

VS.

WILLIAM J. HENDERSON, POSTMASTER GENERAL
UNITED STATES POSTAL SERVICE
- Respondents

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

PRO SE ALLEN B. CARLTON JR.
Political Prisoner
State of Texas
Federal Whistle Blower
Complaint OSC MA 93 1872
2416 ALAN CT
BURLESON TEXAS 76028-9472
(817) 295-5840

QUESTION PRESENTED

1. May the Fifth Circuit aide and abet the United States Government / Postal Service officials in Collusion (pattern of racketeering) to achieve the National Goal (reduce gov't and gov't spending by using COINTELPRO tactics to cover up violations of law responsible for the total destruction of entire American families to avoid liability.

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STATEMENT OF JURISDICTION

Article 6, Constitution of the United States: "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law Of The Land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding".

First Amendment, Fifth Amendment, and Seventh Amendments.

Law Enforcement Agencies continue to use COINTELPRO egregious acts to keep me from exposing criminal activity responsible for the total distruction of entire American Families. The Fifth Circuit issued its opinion on May 3, 1999. This first petition for Writ of Certiorari was filed within 90 days of the decision. Under Economic Oppression. I receiving the other 40 copies back instructing me that they were done incorrectly. I was given 60 more days.

The jurisdiction of this Court is invoked under 28 USC § 1257(a).

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STATEMENT OF THE CASE

Case No. 99 - 10108 was dismissed for failure of the appellant to file his brief and record excerpts within the time fixed by the rules (Appendix A at 1a).

I 'm requesting a total review of all my claims and complaints filed with or against any Gov't Agency / official. A fair trial (Seventh Amendment) (Appendix B at 2a) under the Equal Access to Justice Act, Americans with Disability Act, Rehabilitation Act and both Civil Rights Acts (All Appendixes).

My Family and I proceed Pro Se under Economic Oppression (Fifth Amendment).

I.

ARGUMENT

Title 18 US Code Section 241 - conspiracy against the rights of citizens and 242 - Deprivation of rights under color of law.

All government decisionmakers Congressional (The Washington Post A16, Jul 23, 1993 by Eric Pianin), Federal, State and Local never made a good faith effort to comply with any federal law, rules or regulations, or contract, yet they all shared information to place my family and I under Economic Oppression (financial, physical and mental extreme stress) to avoid liability (Federal Employer's Liability Act)and for personal gain (jobs for family members, bonuses, awards, & promotions) (RICO) making them all suspect *(Washington v.*

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DOI).

My family and I continue to be treated like toxic waste by Congressional, Federal, State and Local Law Enforcement with jurisdiction over valid claims and complaints to avoid liability (Fifth Amendment).

I, Allen B. Carlton JR. hands remain clean as I'm continued to be discriminated against because of my race - black, my national origin - Afrikan - American, my place of birth - New Jersey, my religion - Righteous, my position - Career Appointee, a MPLSM Operator, non-exempt FLSA status, disability - DSM - III-R 309.24 Adjustment disorder with anxious mood. V62.20 Occupational problem exacerbated to Post-traumatic Stress Disorder (*Lussier v. Postmaster General)*.

A Medical Condition bought on by outrageous actions or lack of action by US Government / Postal Human Resource Group and Law Enforcement officials avoiding liabilities creating COLLUSION *(Stoll v. Runyon)*(All Appendixes).

I, Federal Whistle Blower complaint No. Office of Special Counsel (OSC) MA 93 1872 (John P. Bosley v. MSPB), Merit System Protection Board No. DA07529403261*(Washington v. DOI)*, Equal Employment Opportunity Commission (EEOC) No. HI-0125-95, Office of Worker's Compensation Program (OWCP) Branch of Hearing and Reviews No. A16-0188015, Employees' Compensation Appeals Board (ECAB) No. 94-2100, General Accounting Office (GAO) Control No. OSI 93 436, US Commission on Civil Rights (CCR) # 94-1-1800, Political Prisoner - *State of Texas v. Allen Carlton cause # 502958 and*

Second Court of Appeals, District of Texas Appeals No. 02-93-00427CR (Pittard v. National Convenience Stores), National Whistle Blower who appeared on the Jerry Springer Show exposing USPS crimes against humanity titled (Violence at the Post Office) show No. SO618-93 etc (First Amendment).

I Allen B. Carlton JR. exist under extreme duress which began in 1990, exacerbated to Post-traumatic Stress Disorder (Appendix D at 13a) from constant orchestrated egregious wrongful conduct, so please bear with me on procedure under these extra-extra-ordinary conditions *(United States ET AL v. Stanley)*. I sent certified mail Z 064 960 160 containing evidence about the wrongful conduct of USPS / Government officials to the Supreme Court my receipt was stamped received Jul 25, 1994 mailroom Supreme Court U.S. and stamped received Supreme Court Police Department. I filed with the Supreme Court sent 40 copies. Sent a copy to the U.S. Solicitor General and US Attorney Wayne Hughes JR. I was told it was done wrong by the clerk and given an additional 60 days. The 40 copies should be considered supplement to this. The white washing and paper trail continues even though the illegal activity is responsible for the total destruction of entire American families (suicides and executions).

To the World *(United States to the Human Rights Committee)* let this case serve to expose more Abuse of Power, Obstruction of Justice, Domestic Terrorism, Collusion and Retribution by United Snakes Congressional, Federal, State and Local Officials *(United States ET AL v. Stanley No. 86-393)*.

Ed Winsten, Editor of the Federal Times mysteriously died after receiving this same information from me.

Joseph Harris an Afrikan - American mail handler at Ridgewood NJ, who mysteriously died like Ed Winsten, described similar egregious acts by the USPS against him as, *"it was as if they declared war on me"* (Fifth Amendment).

It was Chief Justice R.B. Taney who said, " the Negroes had been regarded as being of an inferior order. So far inferior that they had no rights which a white man was bound to respect" *(Racism in America)*.

My Case No. 99-10108 exposes COLLUSION between the USPS / Gov't and the American Postal Workers' Union (APWU) using Abuse of Power and Obstruction of Justice to avoid liabilities for personal gains (*see Brotherhood of Carpenters and Joiners of America,Local 610, AFL-CIO v. Scott*).

Throughout the Administrative and Judicial Process government officials have used inference turning my hearings into shams, driven by a pre-determined result and with no due process whatsoever (*Clinton Washington v. Department of Interior)(Jones v. APWU)*. A consistent pattern under the Clinton Administration to achieve the National Goal. The Executive Order 12871 in October 1993 *(National Partnership Council)*. The National Goal to reduce government and government spending. A reduction-in-force creating a conflict of interests for any member of the American public with a claim against the gov't, especially USPS / government employees seeking justice.

Instead of enforcement, US Human Resource Groups / Law Enforcement officials tell you to get an attorney as they retaliate using mean-spirited and egregious acts of subterfuge and subversion continuing Economic Oppression which leads to destruction. COINTELPRO tactics malicious, deliberate, premeditated, and calculated *(Stoll v. Runyon)(US ET AL v.Stanley)*.

Senator John Glenn said, *"when an agency is allowed to police itself, this creates a grave conflict of interests"*.

In Government today there is institutionalized bias in the Administrative and Judicial System (Appendixes B at 2a, I at 23a *(see Washington v. Department of Interior)*.

The removal of the case from the Honorable U.S. District Judge John McBryde is suspect. Judge McBryde who received a lifetime appointment to the bench from President Bush. The Honorable Judge McBryde accused U.S. Attorney Darcy Cerow (based in Phoenix) and Postal Inspector Rex Whiteaker of lying and contempt of court. The Honorable Judge McBryde sanctioned U.S. Assistant Attorney Randell P. Means for withholding documents and information in a 1992 lawsuit filed against the USPS / federal government. The Judicial Council of the 5th U.S. Circuit Court of Appeals then reprimanded the Honorable Judge John McBryde. Actions against him remain shrouded in excessive secrecy. U.S. District Judges Terry Means sided with Northern Judicial District Chief Judge Jerry Buchmeyer about actions taken against McBryde. My Case was given to Judge means this is suspect. Judge Means dismissed several valid civil and

human rights lawsuits I was forced to file Pro se while under oppression; against other gov't agencies and officials aiding and abetting the USPS in dealing with this case (Appendix A at 1a). The EEO Coercion complaints have still gone uninvestigated by the USPS especially the ones against specific bias gov't decisionmakers, like those against Judge Means, and Arbitrator Norman Bennett. This is suspect.

We all work for the US Government just different subsidiaries.

The fact that Government Officials share information and they are aware of my medical condition which they created and exacerbate daily. My family and I were placed under siege. I was vilified and then I was fraudulently removed in Nov 1992. I was fraudulently arrested for criminal trespass by Gov't / Postal Officials in Feb 1993 (Appendix B at 2a). I filed with the Office of Special Counsel in July 1993. I exposed USPS crimes against humanity on National Television Show (Jerry Springer Violence at the P.O.) which aired June 1993. FERS Agency Certificate of Reassignment and Accommodation Efforts denial is dated July 1993. I was fraudulently convicted of criminal trespass at the Jack D. Watson P.O. in August 1993. Arbitrator Norman Bennett made the removal arbitration decision in Jan 1994. I was meted out involuntary disability retirement disability in May 1995, social security in 1996, and yes all done to cover-up criminal activity and limit liability. All suspect.

Some of the abuses committed by Gov't Attorneys can be found in the ten part series done by the Pittsburgh Post-Gazette. A quote

from the Gazette " the problems have worsened as Congress has eliminated many of the checks and balances designed to prevent abuse of power".

We continue to have a legal system that protects itself first and administers justice last. This became apparent to me when I reported criminal activity responsible for the total destruction of entire American Families to the proper Congressional, Federal, State and Local Law Enforcement authorities *(Biven v. Six Unknown Named Agents)*.

The USPS and APWU Officials conspired against me when I filed the EEO complaint on the violation of the Federal Labor Standards Act (FLSA) (Appendix H at 22a) *(Jones v. APWU)*.

USPS, Supervisor Jeff Billington (Caucasian male) in the EEO investigation (Appendix F at 18a), named Sam Liscenbe, (Caucasian male) as the APWU Ft Worth - Local representative who made the agreement with him to violate the (FLSA) *(see Meara v. Bennett)*. Sam Liscenbe was assigned to handle my 7-day suspension grievance. This is extremely suspect.

My supervisor Margie Schietle (Caucasian female) told me, she was just doing what her supervisor Jeff Billington (Caucasian male) told her to do when she gave me unwarranted discipline (False Claims Act). Margie Schietle was present during the alleged incident for which I was removed, yet it was Jeff Billington who omitted her entire testimony and crucial parts of Ronald G. Allred's testimony given in his sworn statement in the removal notice which he signed.

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The Human Resource Group / Law Enforcement Officials conspires after an incident to have me removed (see Lussier v. Postmaster General). I had just come back from serving the unwarranted 7-day suspension. It's Thanksgiving night. A verbal confrontation takes place between Juan Castillo (Hispanic male) and myself. He tells me to go home and return tomorrow. The next two days are my scheduled off days confirmed by the Union. Juan Castillo, USPS official then later alleges I assaulted him. I never touched him and later his Court testimony under oath proves this (False Claims Act). When I return to work Union Steward Danny James and Postal Managers Strickland and Lehman (Caucasian males) walk me out.

US Human Resource Group / Law Enforcement Officials don't stop there they create innuendoes and unsubstantiated statements to harass, detain, segregate, fire, and later have me arrested and convicted of criminal trespass *(see Pittard v. National Convenience Stores)*.

During the USPS drummed up Criminal Trespass case in Aug. of 1993 *(Cause No. 0502958 State of Texas v. Allen B. Carlton JR. County Criminal Court Number 9 Tarrant County, Texas Judge Brent Carr)* against me. Attorney Billy Hullum subpoenaed Postal Inspector Henry Herrera and Supervisor Juan Castillo. Postal Inspector Henry Herrera who was crucial to the case did not show up. Supervisor Juan Castillo was questioned under Oath about the alleged misconduct / assault incident for which I was fired *(Vol. V. pages 35-50)*. His testimony proves no assault took place. Juan Castillo

when asked, " *with his hands, he shoved you?* His reply was, *"ever so slightly, but he did"*. This testimony doesn't even come close to the signed sworn statements allegedly taken by USPS Inspector Robert Bartlett. This is extremely suspect.

Supervisor Juan Castillo testimony was then mailed to gov't officials involved giving them numerous opportunities to stop the persecution and correct the injustices.

In EEO testimony given by *Fred Sayles (EEOC Case 310-92-5269X (Dallas) or 230-94-4161X (Detroit) pg. 780-793)*, another Afrikan-American male, in the same job as I, revealed that Mr. Castillo's has an alcohol problem and in an open confrontation did the same exact thing to him.

My removal arbitration case had nothing to do with Article 2 and 16 (Appendix H at 22a) proved to be a farce. Labor 29 Code of Federal Regulations (CFR) 1613.231 Right To Appeal To The Commission and 1613.261 & 2 (Appendix G at 20a) was used to file an EEO complaint against Arbitrator Norman Bennett (Caucasian male) and his decision along with a similar case he ruled on involving a B. Ross (Caucasian male) for comparison (Appendix I at 23a)(see Carriker v. USPS). The USPS EEO office in their final agency decision said it did not fall under the purviews (see Wright v. Universal Maritime Service Corp) . This is suspect. I contacted the Federal Mediation and Conciliation Service (FMCS). I was told FMCS does not administer the Post Office arbitrators. This was strange. Then I found out that the American Postal Workers Union and USPS employ their own Arbitrators (Antitrust Act). I reported the

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continual egregious acts by certified mail to the DOJ Antitrust Division and in person to the US Attorneys Office. A US Assistant Attorney told me that you think we would prosecute ourselves; we work for the government. After that remark I began putting Title 18 US Code Section 4 on all mail sent to gov't officials. Still nothing was done. This is suspect.

In an act that shocks the contemporary conscience. USPS Inspectors Robert Bartlett and Tammie Moore-Patton (black female) go to my wife's place of business and tell her that I am going to kill her and the children.

First interfere with our finances, then my freedom and then attack the cohesiveness of my family. Focus on the family takes on a whole new meaning (Fifth Amendment).

All evidence shows a nexus, disparate treatment and impact. Criminal activity responsible for the destruction of entire American families sent certified to USPS Headquarters, Board of Governors, Independent Inspector General (IGI) Karla Corcoran, etc. Again aware of my Economic Oppression and to avoid liability I was instructed to get a lawyer. Nothing to my knowledge has been done corrective. Before IGI Corcoran evidence was sent to USPS, Inspector General Kenneth Hunter. Identical results; nothing. Identical game, rotating players. All suspect.

I continues to provide proof of Gang mentality / Collusion between all subsidiaries of the Government i.e. Government Accounting Office (GAO), DOJ, USPS, EEOC, MSPB, NLRB), FLRA, DOL, OWCP Board of Hearing and Review, Employee Compensation Appeals Board (ECAB), OSC, IRS, OPM etc. I filed EEO complaints i.e.

(HI-OI25-95 filed May 5th 1994) on the violation of the Racketeer-Influenced and Corrupt Organizations Act (RICO).

Because the truth commands change it was my duty to also write the United Nations and Amnesty International *(see United States of America to the Human Rights Committee)* about the crimes against humanity, the Government Employee Holocaust / domestic terrorism in America.

Clinton's Federal Death Penalty Bill becomes suspect.

My permission is granted to anyone wanted to obtain and re produce this pertinent information. It's truthful and educational. My social security number is 147-62-6340, check under both Allen B. Carlton and Allen B. Carlton JR with the agency the claim or complaint was filed. Which is just about every Congressional, Federal, State of Texas, County of Tarrant agency. Keep in mind that Government officials continue to tamper with my communications (computer, telephone, mail etc).

If anyone needs me to testify in a Court of Law or on National Television or Radio I can use the therapy (EEO)(FECA). If anyone needs more of my 200 some odd pages of evidence feel free to call me. It might take me awhile because of my condition but I'll get it to you eventually. Wrongful Death lawsuits take priority. Remember I'm not allowed on postal premises at any time. Claims and Complaints going no where sure generate a lot of revenue for the U.S. Treasury / Postal Service and other agencies (RICO). Copies of this is like

Justice - For All.

II.

CONCLUSION

Truth and education will create change (Appendix J at 29a). Deprivation of Rights *(see United States of America to the Human Rights Committee)* and the abuse of any legal system are violent acts, which creates domestic violence / terrorism resulting in suicides and executions *(see Biven v. Six Unknown Named Agents) (www.Findlaw.com search: Respondent Superior for United States v. Stanley).*

I'm invoking the Federal Torture Victim Protection Act *(Alvarez-Machain v. U.S.)* against the United States Government and the American Postal Workers' Union along with the Racketeering-Influencing Corrupt Act (RICO).

My family and I seek real protection, accountability and justice which we did not receive in the Judicial process or the Administrate process of the Equal Employment Opportunity Commission and Office of Workers' Compensation Program *(see Clinton Washington v. Department of Interior).*

Date: September 27, 1999

Respectfully submitted,

Allen B. Carlton

Allen B. Carlton JR
Political Prisoner
State of Texas
Federal WhistleBlower
OSC MA 93 1872

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APPENDIX A

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

U.S. COURT OF APPEALS
FILED
MAY -3 1999
CHARLES R. FULBURGE III
CLERK

No. 99-10108

ALLEN B CARLTON, JR

PLAINTIFF - Appellant

WILLIAM J HENDERSON, Postmaster General,
United States Postal Service

Defendant - Appellee

Appeal from the United States District Court
for the Northern District of Texas, Fort Worth

CLERK'S OFFICE

Under 5th CIR. R. 42.3, the appeal is dismissed for Prosecution for failure of the appellant to file his brief and record excerpts within the time fixed by the rules, this date, May 3, 1999.

CHARLES R. FULBRUGE 111
Clerk of the United States Court
Of Appeals for the Fifth Circuit

By: /s/ signature
Sherry Towle, deputy Clerk

FOR THE COURT - BY DIRECTION

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APPENDIX B

CASE NO. 02-93-0047-CR

ALLEN B. CARLTON, JR., Appellant	COURT OF APPEALS
VS.	2ND APPELLATE DISTRICT
THE STATE OF TEXAS Appellee	OF TEXAS

APPELLANT'S RESPONSE TO STATE'S REPLY TO APPELLANT'S MOTION FOR REHEARING

TO THE HONORABLE JUSTICES OF THE COURT OF APPEALS:

COMES NOW, ALLEN B. CARLTON, JR., Appellant in the above styled cause, and responds to the State's Reply to Appellant's Motion for Rehearing as follows:

I.

On January 11, 1994, the day the State's brief was due in this Court, the State filed a motion for extension of time to file its brief. On January 12, 1994, the Court granted the State's Motion, extending the State's deadline for filing its brief to February 10, 1994. Appellant, however, did not receive the State's motion or any notice thereof until January 13, 1994. Consequently, Appellant was denied any opportunity to present the Court with his objections to the State's motion until after the motion had been granted by the

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Court. On January 13, 1994, Appellant filed a motion for rehearing, asking this Court to reconsider and to vacate its order granting the State's motion for extension of time. On January 21, 1994, the State filed its reply to Appellant's motion for rehearing, to which Appellant now responds.

II.

The State concedes that it failed to comply with Rule 4(a) or the Texas Rules of Appellate Procedure, which requires that every motion be signed by at least one attorney for the party and give that attorney's State Bar of Texas identification number. According to the State, however, Rule 4(a) has been suspended in the present case.

The State asserts that,

> "In the present case, the State notified the Court that it had received information that The [A]ppellant, currently serving probation, Prone to violence against the post office, the District Attorney's office and/or the Courts; thus showing good cause for suspending the rule requiring an attorney signature on its motion for extension".

The State's assertion is ridiculous.

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First, Appellant is obviously not currently serving probation. Second, Appellant is not prone to violence against the post office, the District Attorney's office, the Courts, or anyone else. The offense with which Appellant is charged has nothing to do with violence. Furthermore, the entire record, and especially the testimony of the arresting officer, proves Appellant's extremely calm, polite, non-violent character.

Most significantly, Appellant has received no notice of any information provided to the Court by the State regarding Appellant's alleged propensity to violence. If any such communication has occurred, it clearly constitutes an improper ex parte communication and possibly a violation of Texas Disciplinary Rule of Professional Conduct 3.05, Texas Code of Judicial Conduct Cannon 3(A)(5), and Rule 6 of the Texas Rules of Appellate Procedure. If the State has provided the Court with supporting affidavits or any other evidence that complies wit Rule 19(d) of the Texas Rules of Appellate Procedure (or if Rule 19(d) has also been suspended by the Court), Appellant respectfully requests notice of such action.

In any event, Appellant disputes the State's contention that it has shown 'good cause" for the suspension of Rule 4(a) or any other rule. Further, Appellant questions the timing of the events at issue:

(1) If the Court received the alleged information from the State, when did the Court receive it, and why was Appellant not properly served?

(2) If the Court suspended Rule 4(a), when did the Court do so, and why was

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Appellant not informed?

(3) If the above actions transpired after the State filed its motion for extension of time, then how could they be used to support that motion?

The State's groundless, after-the-fact assertion that is has provided this Court with "good cause" to throw away the rules in this case merits no consideration by the Court at all.

III.

In his motion for rehearing, Appellant pointed out that the State's motion for extension of time was flagrantly unsupported by facts. In reply, the State has now filed an even move egregious example of convoluted logic base on unsubstantiated allegations designed to circumvent Appellant's rights on appeal. Furthermore, the State's reply is filled with bias, prejudice, and outright falsehood. In particular, the statement that "the [A]ppellant, currently serving probation, was prone to violence..." is utter nonsense, unsupported by the record, by affidavit, or by any form of evidence whatsoever. The State's deliberate misrepresentations and unethical tactics evoke shadows of Hitler's Gestapo or Stalin's Secret Police.

IV.

The State's assertion that it complied with the technical requirements of Rule 4 of the Texas Rules of Appellate Procedure completely misses the point of Appellant's objection. Of course, State's Exhibit A (transmittal letter dated January 11, 1994) by no means proves that service was proper, since that letter could have been created as late as January 21, 1994. Even if service was proper

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under Rule 4, however, Appellant's complaint is that he was effectively denied due process of law because he received no notice or opportunity to be heard prior to the Court's granting of the State's motion. Appellant would further note that the State's contention that it did not receive notice of Appellant's own motion for extension is not only blatantly false (See Exhibit A), but is also totally irrelevant.

V.

While the State concedes that its motion for extension of time did not satisfy at least seven of the mandatory provisions of Rule 73 of the Texas Rules of Appellate Procedure, the State again relies on the Court's authority to suspend the rules. In this instance, however, the State does not even pretend that it has shown "good cause," either before or after the filing or its motion for extension of time. Here again, Appellant raises questions similar to those stated above:

(1) If this Court has suspended Rule 73, did the Court do so on application by the State or on its own motion?

(2) If this Court has suspended Rule 73, what was the basis for that action?

(3) If this Court has suspended Rule 73, did the Court did so before or after the State filed its motion for extension of time?

(4) If this Court has suspended Rule 73, why was Appellant not informed of that action?

(5) Exactly which rules have been sus-

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pended by the Court, and which rules, if any remain effective?

Appellant respectfully appeals to this Court to prevent the injustice that will result if the State is allowed to ignore the Texas Rules of Appellant Procedure.

VI.

Finally, in addressing the most severe deficiency in the State's motion for extension of time, the State claims that it was unable to comply with the deadline imposed by the rules "due to the necessity of completing other briefs previously assigned to this particular State's attorney. "The State's use of the phrase "this particular State's attorney" is quite ironic in view of the State's groundless refusal to identify the attorney responsible for this appeal. Furthermore, the State's vague allegation that the Appellate Division of the District Attorney's office is critically overworked and/or understaffed does not justify the State's apparent disdain for the Texas Rules of Appellate Procedure.

The State's mysterious unidentified attorney seems to be very confused about Rule 73, as evidence by his/her/its statement that the rules do not require "a party to detail the other briefs whose completion has prevented the assigned State's attorney from working on the particular brief needing an extension of time to complete and file. "the Notwithstanding the State's attorney's confusion, the issue at hand is simple. Rule 73(h) of the Texas Rules of Appellate Procedure requires all motions for extension of time to specify "the facts relied upon to reasonably explain the need for an extension." The State's motion

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for extension of time did not even begin to state facts reasonably explaining the need for an extension.

Therefore, the relief request by Appellant in his motion for rehearing should be granted. This Court should (1) vacate its order granting the State's motion for extension of time; (2) enter an order precluding any untimely filing of a brief by the State; (3) enter an order requiring the State to identify the attorney responsible for this case; (4) enter an order clarifying the rules of procedure applicable to this case; and (5) make such other orders as the Court deems fair and just.

Respectfully submitted,
Signature
Billy D. Hullum
SBN: 10258300
P.O. Box 330939
Fort Worth, Texas 76163-0939
(817) 346-9422
Fax No. (817) 346-9443

ATTORNEY FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, certified mail, return receipt request, on this 26th day of January, 1994, to Betty Marshall, District Attorney's Office, 401 W. Belknap, Fort Worth, Texas 76196.

/s/Signature
Billy D. Hullum

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APPENDIX C

ANN C. TURBEVILLE, M.D.
800 Fifth Avenue, Suite 501
Fort Worth, TX 76104
Telephone: (817) 338-0966

September 23, 1996

FILED
SEP 26 1996
SUZANNE HENDERSON
County clerk, Tarrant Co., Texas
BY _____ Deputy

The Honorable Brent A. Carr
County Criminal Court No. 9
Tarrant County Justice Center
Fort Worth, Texas 76196-7678

RE: Allen B. Carlton

Dear Judge Carr:

Mr. Carlton was examined in my office on Friday, September 20, 1996, pursuant to your Court Order. Mr. Carlton was prompt for the appointment. It was explained to him that the examination was the result of a court Order and was therefore not privileged. He understood this, stating that he had been threatened that he would be incarcerated if he did not submit to the examination and he realized a report would be issued to the Court.

The patient is a 33-year-old married black male. It is very difficult to get a history from this gentleman, but my best understanding is that in 1989 he had been working for the Post Office for some four or five or six years and began to file complaints. He was eventually terminated in 1991 and then medically retired. He said retired; I asked him if it was medical and he said it was,

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although he never received a piece of paper. The patient states he had worked some six years at the Post Office had been on a Level 6 job, there was pressure to get rid of him, and that they were downsizing. He brings out various articles from newspapers to prove his point. He has an extensive file with him that he refers to frequently. The patient has a T-shirt on proclaiming that he is a " Federal Whistleblower and Political Prisoner." The patient states that he has an attorney on the criminal case, he said that a public defender was appointed. He agrees her name is Mary Thornton, but he does not feel that she represents him and that she merely wants him to incriminate himself. The patient states that he is charged with either criminal trespass or aggravated criminal trespass; he does not know exactly which one it is. He states that he wanted a jury trial since he felt that the Court that he was being tried in was unconstitutionally created and that the judge was involved in all of the conspiracy. He states the jury, though, found him guilty and he was sentenced to a fine of $1,000 and 18 months, probation, but he has not been paying his restitution because he has no money. He states they just need to go ahead and lock him up.

The patient states that he is married and that his wife worked for the county, but he has gotten her out of that job since the feels that that is a part of the government conspiracy. He states he has two children a daughter 4 and a son 6. He did have a nephew staying with him who is now in college. The patient states that he has multiply bills and is being persecuted because his salary has been decreased to pittance on his retirement. He states the whole issue is trying to reduce the federal

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deficit because of economic pressures.

When asked how he is trying to defend himself in all of this, he states he is educating people, writing letters, filing lawsuits, both civil and administrative, and is attending a group in Fort Worth that is dealing with discrimination and retaliation. The patient states that his phone has been tapped and that they have gone to his wife's job telling her that he would kill her and her children. He states the only way he has survived is that they did not find out about some money that he had in a mutual fund.

On mental status examination, the patient is oriented to date, place, person and situation. His speech is markedly pressured and tangential. His affect is at times expansive and his mood is slightly angry. He shows no evidence of any types of hallucinations, but he has a very large delusional system regarding his own persecution by the entire federal, state and local governments. He appears to be of above-average intelligence. When questioned closely regarding his future plans, he states hew continue to write attorneys, file lawsuits, possibly write books, and that eventually change will have to come.

Impression:

Axis 1: Delusional disorder.

Conclusions:

This patient suffers from major mental illness that does not impair his ability to factually understand the charges against him, but rationally, he is unable to deal with this.

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Furthermore, I do not fell that this gentleman 9is imminently dangerous. He has never been dangerous in the past. He mostly writes letters and is trying to organize groups, but does not seem to be a violent individual. It is therefore my opinion at this time that this patient is incompetent to stand trial for his probation revocation or cooperate with his attorney in his own defense. These types of patients are extremely difficult as far as treatment issues go. It seems this is a very solid and consolidated paranoid delusional system that has been present since 1991. Therefore, his chances of regaining competency in the foreseeable future are small.

Yours truly,

/s/Signature

Ann C. Turbeville, M.D.

ACT:mal

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APPENDIX D

A tape recording by Dr. Mills was made when Mr. Carlton kept this appointment. Mr. Carlton talks about being persecuted for whistle blowing. A report should be in his Social Security Records for which Mr. Carlton was approved.

Texas
Rehabilitation
Commission
A Human Energy Agency

VERNON M. ARRELL
Commissioner

March 29, 1996

_x_ 1st NOTICE

ALLEN CARLTON JR
2416 ALAN CT
BURLESON TX 76028

CLAIMANT: Allen B. Carlton

SSN: 147-62-6340C

The Social Security Administration sent the claim on the individual listed above to this Agency for decision and we need additional information.

We have arranged a special examination, at no cost to you, with the following:

BARRY MILLS, M.D.
1601 E LAMAR #118A
ARLINGTON TX 76011-0000
Phone: 817/235-5081 Ext:0000

Appointment Date and Time: April 20, 1996
430PM

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Exam(s) or Test(s): MENTAL EXAM

Condition(s) Evaluated: POST TRAUMATIC STRESS SYNDROME

Please read the enclosed information carefully. It is your responsibility to attend this exam. If you have questions, cannot attend, or your doctor tells you not to take this exam/test, please call me toll free at 1-800-252-7009.
Failure to attend without notifying us beforehand may result in a decision based on evidence in file, which may result in finding of no disability. If you are receiving checks, these checks may stop.

NOTE: If you want your doctor to receive a copy of the report, please complete and return the enclosed authorization.

Sincerely
Signature
BRENDA RUBIO 324/07
Disability Examiner
512/416-5038

WP-007
cc. Examining Physician(S)
Enclosures

Disability Determination Services
An Equal Opportunity Employer
6101 E. Oltorf · Austin, Texas 78741-7597

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APPENDIX E

JAMES L. THOMASON, M.D.
6500 West Freeway, Suite 818
Ft. Worth, TX 76116
(817) 738-2400
(817) 738-4507-Fax

January 26, 1993

To whom it may concern:

This letter is forwarded to your attention for the purpose of further clarifying my clinical observations and opinions regarding my patient, Allen Carlton.

Mr. Carlton originally presented for an evaluation on October 28, 1992 because of concerns regarding significant anxiety and anger related to perceived ill treatment at the hands of specific supervisors. Mr. Carlton provided an extensive package of documentation of incidents dating back to the 1990 timeframe in which he feels he stood up for his rights in a specific incident in which he was denied a lunch break in violation of postal regulations. He feels the fact that he was found to be correct angered supervisors and various management members of his local post office to the point that they have held a significant grudge against his person since that time. As a result of this perceived ill will, Mr. Carlton feels he has been subjected to a series of unfair actions at the hands of these supervisors.

Specific referrals were made to various inci-

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dents in which he was asked to perform certain jobs or denied privileges permitted to other workers in similar positions. Mr. Carlton expressed a feeling that he was being treated differently as a result of the previously-mentioned covert hostility on the part of his immediate supervisors. As a result of the chronic state of conflict between he and his supervisors, Mr. Carlton developed symptoms consistent with an anxiety disorder. The details of this disorder were documented in previous correspondence with his previous therapist and in my original correspondence.

Recommendations were made on several occasions to effect a work transfer for Mr. Carlton for the purpose of reducing this level of stress and to limit the possibility of further exacerbation in Mr. Carlton's mood state. By correspondence which has been made available to me, it is apparent that the local medical consultants to the Postal Service did not see merit in my recommendations nor that of Mr. Carlton's other mental health therapist and physicians. It is my opinion that neglect of this particular recommendation established the foundation incident which occurred on November 26, 1992 which has subsequently led to Mr. Carlton's dismissal form the Postal Service. Specifically, Mr. Carlton has felt somewhat powerless in the hands of the bureaucracy of the Postal Service. His condition is exacerbated by his perception of little hope of change in his work situation.

Mr. Carlton related that a series of events, culminating with his recent seven-day suspension, contributed to considerable resentment and internalized anger which exploded to the surface due to perceived manner in which a Mr. Castillo addressed Mr. Carlton when he re-

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quested to see the duty nurse. While certainly Mr. Carlton's behaviors were not acceptable by most business standards, it is my clinical opinion that this particular incident could have been avoided if my original recommendation had been followed.

If a release of information can be forwarded from your office, I will be happy to discuss my findings and opinions in greater detail.

Sincerely,

/s/Signature
James L. Thomason, M.D.
Psychiatrist

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APPENDIX F

U.S.Postal Service EQUAL EMPLOYMENT OPPORTUNITY INVESTIGATE AFFIDAVITT (WITNESS) case no.3-A-1224-92

March 13, 1992

BILLINGTON, JEFF C.
SUPERVISOR MAILS, MPLSM EAS-16 JACK D. WATSON, GMF, USPS MAIL PROCESSING UNIT

1. Were you the supervisor during the time Mr. Carlton was on the 153 crew?
A. No.

2. Mr. Carlton alleges he had to wait 6 ½ hours before going to lunch. If this is so, please explain why.
A. About two (2) years ago all employees on the 153 and 155 crews asked if they could hold their lunches until 0630, taking two breaks first. This would help the employees by when allowing them to go home at 0630, they would only have to take 1 ½ hours annual and they all wanted to do it. I got with upper management and union officials (Sam Lisenbe) and both said it would be fine if all wanted to do this. Mr. Carlton was not on the crew at this time, but did know from the breaks and lunches worked prior to bidding to that position.

3. Did Mr. Carlton ever express to you his

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objection to waiting 6 ½ hours before going to lunch? If yes, what did you tell him?

A. No.

4. What involvement if any did the Postmaster have in Mr. Carlton having to wait 6 ½ hours before going to lunch?

A. None.

5. Was reprisal and/or race factors in Mr. Carlton having to wait 6 ½ hours before going to lunch? If so, what factors?

A. No.

6. To resolve this complaint Mr. Carlton wants to be paid for each day he was required to hold his lunch. Can or will you grant this request? If not is there anything you can or will offer in and effort to resolve this complaint?

A. No. Mr. Carlton knew about the situation prior to bidding on the crew. Mr. Carlton never stated any complaints to me the time he was on the 153 crew and is taking his lunch 4 ½ hours after beginning tour.

7. Is there any pertinent information you wish to add concerning this complaint?

A. Mr. Carlton had knowledge of the lunches prior to bidding on the crew, least while he held the position on the 153 crew.

APPENDIX G

APPEAL TO THE COMMISSION

§ 1613.231 Right to appeal to the Commission.

a. A complainant may appeal to the Commission the decision of the head of the agency or designee:

1. To reject or cancel the complaint or any portion for reasons covered by § 1613.215; or
2. Under the circumstances set forth in § 1613.217(b); or
3. On the merits of the complaint, under § 1613.217(d), § 1613.220(d) or § 1613.221, or on the award of attorney's fees or costs.

b. A complainant may appeal to the Commission on issues of employment discrimination raised in negotiated grievance procedure covered by § 1613.219(a), where the agency's negotiated labor-management agreement permits such issues to be raised. A complainant may appeal the decision:

1. Of the agency head or designee on the grievance;
2. Of the arbitrator on the grievance; or
3. Of the Federal Labor Relations Authority (FLRA) on exceptions to the arbitrator's award.

A complainant may not appeal under this subsection, however, when the matter initially raised in the negotiated grievance procedure is still ongoing in that process, is in arbitration or is before the FLRA. Any appeal prematurely filed in such circumstances shall be dismissed without prejudice.

[52 FR 41927, OCT. 30, 1987]

§ 1613.232 Where to appeal.

The complainant shall file his appeal in writing, either personally or by mail, with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, 1801 L Street, NW. Washington, DC 20507.

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APPENDIX H

COLLECTIVE BARGAINING AGREEMENT

(BETWEEN AMERICAN POSTAL WORKERS UNION, AFL-CIO AND U.S. POSTAL SERVICE November 21, 1990 - November 20, 1994)

PAGE 4 - **ARTICLE 2**

NON-DISCRIMINATION AND CIVIL RIGHTS

Section 1. Statement of Principle

The Employer and the Unions agree that there shall be no discrimination by the Employer or the Unions against employees because of race, color, creed, religion, national origin, sex, age, or martial status.

In addition, consistent with the other provisions of this Agreement, there shall be no unlawful discrimination against handicapped employees, as prohibited by the Rehabilitation Act.

[see Memo, page 262]

PAGE 88-91 - **ARTICLE 16**

DISCIPLINE PROCEDURES

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APPENDIX I

EXPEDITED ARBITRATION PANEL

U.S. POSTAL SERVICE

-and-

NATL. ASSOCIATION OF LETTER CARRIERS, AFL - CIO

GRIEVANT: B. ROSS

NO.: S7N-3A-D 10067

P.O.: FORT WORTH, TX

RECIEVED
SEPT 26 1988
NATIONAL BUSINESS AGENT
N.A.L.C.
DALLAS REGION #1

BEFORE: Norman Bennett, Arbitrator

APPEARANCES:

For Management - Oscar Ochoa
For the Union - George white

LOCATION OF HEARING: Fort Worth, TX

DATE OF HEARING: August 22, 1988

Opinion

The Greivant Ross was issued a 14-day suspension dated January 19, 1988 for "unsatisfactory conduct of a postal service employee." This involved a conflict between Ross and Supervisor Collins on the workroom floor on January 12, 1988. There were no prior elements cited in the letter of charges.

Supervisor Collins' version was that Ross approached hin when he was seated at the

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supervisors desk. Ross requested that a military leave card which had been provided to Management be returned. Collins said that he didn't know anything about the card and asked who the card had been given to. Ross said that the form had been given to Supervisor Gibson. Collins then said, " Check with Gibson, I know nothing about the form." Ross replied, " I need it today." Collins then stated, " Get the card from Gibson, he's not here now, but he will be back in the morning." At this point, Ross became upset. Ross again asked for the card, and Collins again told Ross to get the card from Gibson. Ross became more upset at this point, and started talking in a loud voice. Ross then said, " Your gonna get the card for me today." Collins responded. "I can't get you what I don't have." Ross became indignant and belligerent. Collins then instructed, "Keep your voice down." When Ross refused to hold his voice down and continued the confrontation, Collins told Ross to clock-out and go home. Ross then started toward his case, instead of the door. Collins asked where he was going. Ross responded, "To get my god-damn coat." As Ross went to his case, Collins followed behind. Ross got his coat at the case, and headed for the door. Collins met Ross before he got out of the door. Collins does not deny being upset at this point. He further admits to "talking with his hands." Collins instructed Ross to get off the premises Ross then stated, that "If you want to fight, we'll have to go outside." Ross then left the building.

The Union's version of the incident is that Ross was attempting to retrieve a confidential form from management. This form, listing Ross's tentative schedule for military duty and confidential military phone numbers, was

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given to Gibson upon request. The first attempt to retrieve form was with Supervisor Gibson at which time Ross was told that Collins had the form. When Ross approached Collins about the matter later in the day, Collins became belligerent. Collins started shaking his finger in Ross' face and said, " I don't know where it (the form) is. I don't give a damn about it, and I don't give a damn about what you need." Collins then came out of his chair and was shaking his finger at Ross. Ross then said, "Stop shaking your finger in my face." Collins responded, "You don't give the orders around here." Collins finally ordered Ross out of the building. Ross asked if he could get his coat and at this point started toward his case. Collins followed, shaking his finger and fist in Ross' face. Ross finally told Collins, "Get your god-damn finger out of my face. If you want to fight, we have to go outside." Ross then left the building.

Union's Contentions: (1) The first confrontation at the supervisor's desk was brought on by Collins making a threatening gesture toward Ross (shaking his finger in Ross' face). (2) Collins continued with the confrontation after Ross' walked away. Collins continued shaking his finger and fist in Ross' face as Ross was getting his coat to leave the building. In this regard, Collins admits that he was upset and that he was "talking with his hands." (3) Because of Collins behavior Ross thought that Collins wanted to fight. Therefore, he made the statement, "If you want to fight, we'll have to go outside." This statement is not a threat to fight. It is simply a response to Collins' loss of control. (4) Collins settled the matter by agreeing that the matter would be

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dropped if Ross transferred out of the building. Ross transferred out of the building. However, Collins failed to live-up to the agreement reached. (5) The discipline is not progressive in this case. There were no prior elements cited in the letter of charges. (6) The discipline is too severe under the entirety of circumstances presented in this case.

Management's Contentions: (1) Collins did not threaten Ross at the supervisors' desk, as alleged. (2) Ross provoked the confrontation by persisting in the argument even after Collins had instructed Ross to calm down and to keep his voice down. (3) Collins instructed the Grievant to leave the building, and, instead, the Grievant started toward his case. (4) Collins did not threaten Ross on the workroom floor, as alleged. (5) Collins does not deny being upset, but the Grievant provoked this response by persisting in the confrontation. (6) There was no settlement of the matter, as alleged by the Union.

There is no doubt in this case that Ross provoked the conflict that occurred. In this regard, the Union Steward who witnessed the incident admitted the obvious when he testified that Ross was "wrong" by "persisting" in the conflict. The Union Steward correctly testified that Ross should have "walked away." Further, Ross does not deny that he persisted in the matter. He testified that he did so because he thought that supervision was "lying" to him. Additionally for Ross to even mention fighting to a supervisor is highly improper.

The Union argues that both Collins and Ross were "at fault." On this point, it appears that Supervisor Collins did become upset, and Collins admits to "talking with

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hands." However, this was in the context of Ross' provoking the conflict by persisting in the matter after he had been told by Collins to let the matter drop. It is difficult, therefore, to attach much credence to the fact that Collins became upset, when it was Ross who persisted in the matter, no place for such lively debates or exchanges. The Grievant has other remedies; for example, he can file a grievance. The Grievant is required to do as instructed, and then grieve if he wants to pursue the matter.

The Union next argues that the matter was settled with Collins, and that Collins failed to abide by the settlement. The Union Steward's version of this matter was that he had a conversation with Collins the evening of the incident, and the matter would be dropped. According to the Union Steward, he asked Collins if Ross' bid out of the station would that settle the matter. Collins responded, "I have no problem with that." Collins' version of the matter was that he added, "but, I'll have to check with my station manager. In any event, Collins later decided on a 14-day suspension.

There is no doubt that Collins told the Union Steward that the matter could be settled if Ross would bid out of the station. It was clear at the hearing that the Union genuinely believed that an agreement had been reached. However, this conversation occurred on the evening of the day of the incident. No formal discipline had been issued at this time. The matter was not in the grievance procedure at this point. The agreement was not reduced to writing. Collins told the Union Steward that settlement as outlined by the Union was satisfactory, but probably added that he would

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have to check the matter with the station manager. On this point, there was some testimony that the station manager would not let any of her supervisors settle any discipline matter. Collins denied tat this was the case. In the context of the entire conservation, it is somewhat understandable that the Union did not pay much attention to the condition set forth by Collins. Nevertheless, a breach of agreement cannot be found from the evidence in the record.

The Union next contends that the discipline was not progressive and that it was too severe under the facts in this case. Regardless of whether there was a binding agreement it is obvious that Collins thought at one time that the matter could be corrected without any discipline was with Ross simply biding out of the building. He came as close to making such an agreement as one can come without actually making it. Collins later changed his mind, as he had a right to do, and recommended a 14-day suspension. A 14-day suspension is the most severe discipline, other than removal. While there was no binding agreement in this case, changing the decision from no discipline to correct the matter a 14-day suspension reflects. On the issue of severity of discipline. Therefore, it appears that the 14-day suspension discipline should be reduced to a 7-day suspension. Backpay in accordance with this opinion is awarded.

DATED: 9/23/88

/s/signature
Norman Bennett,
Arbitrator

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APPENDIX J

June 22, 1993

Mr. Jerry Springer
454 Columbus, 2nd. Floor
Chicago, IL 60611

Dear Mr. Springer:

I saw part of your program (Ch. 27, Dallas TX, 8PM, 6/18/93) about the postal employee. I didn't catch his name but he was the one wearing the red tee shirt and black backwards hat.

At least once every day for 11 years I have had to decide whether or not to kill some of the people that I used to worked under, I have imagined various methods, such as bombs, electrocution, suffocation, poisons, drowning, & worse. I probably would have killed them long ago except that I kept trying to figure out something better, because killing would be too good for them.

I have been dead for 11 years, not a "walking wounded" as one of your experts put it, but a walking dead man - a zombie. They destroyed me maliciously and& deliberately, like being gang stomped. It left my mind permanently impared. I will be mentally crippled until I die. It's a sophisticated way to destroy a person, because physical injury can incur legal liability, but severe psychological debilitation can, I found, be engineered with impunity by those with totalitarian corporate

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power.

It seemed you had some difficulty comprehending why Mr. ? "allowed" them to do this to him. I understood it immediately and thoroughly. I recognized from just a few key words that his feelings were altogether familiar, as though the same standard "management technique" had been used on both of us, expertly orchestrated by people practiced in its application, to produce identical results.

If we were both postal employees such a case could be quite concieveable, but my job was in a very different type organization. Hence I write this to suggest for your contemplation whether the perplexing symptoms that have been manifested in the U.S. Postal Service might not be a precursor of a hidden volcano about to errupt throughout this strained society.

I did not percieve that any participant except Mr. ? really understood the scenario involved. It would be unfortunate if such incidents recur because no one troubles to objectively investigate the phenomenon deeply enough to understand what is actually going on. In the unhappy event of further such occurences attracting national attention, I hope you will be reminded of this letter.

I would like you to know that I have never before been able to express the above thought to anyone. There is much more on this matter that I need to somehow get off my chest, but I don't want to protract this letter any further.

If you would arrange for Mr. ? to get a copy of this letter, with my address, I would very much like to explore why our experiences seem

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to be so identical.

Very truly yours,

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